

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: **7-192521**

DATE: **August 31 1978**

MATTER OF: **Specialized Management Services Co.**

DIGEST:

Protest involves nonappropriated funds as no statute authorizes imposition of surcharge on sales of goods sold in commissaries and provides for specific use of funds collected. Since GAO lacks settlement authority over nonappropriated fund accounts, protest is dismissed. Prior decision distinguished.

The Specialized Management Services Company protests the rejection of its proposal by the U.S. Army's Southeast Commissary Field Office. The proposal was submitted in response to request for proposals DAHC40-TSABF-78-R-0002, which solicited offers for bagging and carryout services at specified commissaries.

The commissaries levy a surcharge on the goods sold. The employees performing bagging and carryout services are paid from the surcharge funds collected.

We have held that where a statute authorizes the imposition of a surcharge on sales of goods sold in commissaries and provides for the specific use of the funds collected, such funds are appropriated and are subject to settlement by GAO. Fortec Constructors--Reconsideration, 57 Comp. Gen. 311 (1978), 78-1 CPD 153.

In the instant case, however, the Department of the Army (Army) has taken the position that only nonappropriated funds are involved since no statute authorizes the imposition of a surcharge and directs that the funds collected be used to compensate employees. We agree with the position taken by the Army.

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Our Bid Protest Procedures only provide for consideration of protests involving agencies of the Federal Government "whose accounts are subject to settlement" by our Office. 4 C.F.R. § 20.1(a) (1977). Since we do not have settlement authority over nonappropriated fund accounts, such as those involved here, we must decline to render a decision on this protest. Data Terminal Systems, B-187606, February 2, 1977, 77-1 CPD 85.

Paul G. Dembling
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General Counsel